

REMARKS

The Office Action of February 7, 2005 has been carefully considered.

Claim 9 has been objected to under 37 CFR 1.75(c) as not limiting the subject matter of a previous claim. Claim 9 has now been amended to recite a preferred range of about 150 h, as disclosed in the specification at [0040] of the published text.

Claims 1-6, 9-12 and 26-27 have been rejected under 35 USC 103(a) over Chakrabarti et al.

Chakrabarti et al discloses series 7xxx aluminum alloys where $Mg \leq (Cu + 0.3)$, and which are aged to result in compressive yield strengths which are higher than those previously known in the art.

US Application No. 2002/0121319 A1 to Chakrabarti et al, was published September 5, 2002, and based on a US patent application filed on October 4, 2001. This application is a continuation-in-part of a US patent application filed on January 31, 2001.

The present application was filed in US Patent and Trademark Office on February 6, 2002, and claims the priority of French application 01/01617 filed February 6, 2001. While the French priority date is subsequent to the Chakarabarti et al parent filing date, the invention disclosed and claimed in the present patent application was completed prior to the filing date of the Chakrabarti et al parent application (January 31, 2001), and subsequent to January 1, 1996, in a WTO country.

In support of the asserted date of invention, submitted herewith is a Declaration of the inventor under 37 CFR 1.131, accompanied by English translations of three reports on which the inventor is named as a co-author, labeled Exhibit A,

Exhibit B and Exhibit C. All three reports are verified by the inventor to be true and accurate translations of original French language reports and are redacted as to dates and non-relevant subject matter.

As discussed in detail in the declaration, the subject matter of the invention, including the starting alloy, the processing steps, and the artificial aging time, was in the possession of the inventor, and was reduced to practice before the filing date of Chakrabarti et al. Any differences between the invention as reduced to practice and the invention as now claimed are small, and would have been obvious to one of ordinary skill in the art.

Having shown that Applicant was in possession of the invention prior to the earliest filing date of Chakrabarti et al, Applicant submits that the rejection over Chakrabarti et al should be withdrawn.

Claims 1-7, 9-10 and 25-30 have been rejected under 35 USC 103(a) over Ponchel et al. Ponchel et al discloses an alloy of overlapping composition which is aged at a temperature of about 275°F (135°C) for a period of 6-30 hours, as compared with about 24-60 hours according to Fig. 2 of the present application.

The purpose of the Ponchel et al process is to improve corrosion resistance, which is established by Tables I-III. There is no indication that the process disclosed improves compressive yield strength as does the process of the presently claimed invention, with the possible exception of Sample 6 in Table III, and the value given (94.1 ksi) is so far out of line with the other compressive yield strength values of Tables I-III, that it is thought to be in error. The data of Ponchel et al, taken as a whole, would not lead one of ordinary skill in the art to believe that the treatment

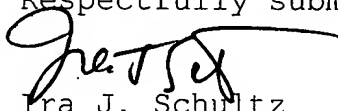
disclosed by Ponchel et al leads to an increase in compressive yield strength.

Moreover, the actual alloy tested by Ponchel et al contained 5.9-6.9% Zn, which is less than the 7% Zn minimum of the claimed invention. Indeed, it is stated at [0024] of the published application that the invention is not considered useful for alloys containing less than 7% zinc since such alloys are no longer used in aeronautical construction for the fabrication of structural elements stressed in compression.

Thus, one of ordinary skill in the art would not have looked to the Ponchel et al reference for information regarding improving compressive yield strength for alloys containing more than 7% zinc, and withdrawal of this rejection is requested.

In view of the foregoing amendments and remarks, Applicant submits that the present application is now in condition for allowance. An early allowance of the application with amended claims is earnestly solicited.

Respectfully submitted,



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